IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 20TH NOVEMBER 2007 / 29TH KARTHIKA 1929

CRL.A.No. 77 of 2001()

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ST.4070/1998 of JUDL.MAGISTRATE OF FIRST CLASS COURT, TIRUR

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APPELLANT: COMPLAINANT

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T.V.RAMAKRISHNAN
S/O.VELAYUDHAN
TALAKKADU HOUSE, B.P.ANGADI P.O.
TIRUR-2.

BY ADV. SRI.P.VIJAYA BHANU
SMT.P.MAYA

RESPONDENTS: ACCUSED & STATE

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1. K.VELAYUDHAN
   KAVEETTIL HOUSE, KOTTE
   PAZHAM KULANGARA
   TIRUR-1.

2. STATE OF KERALA,
   REPRESENTED BY PUBLIC PROSECUTOR
   HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.T.KRISHNAN UNNI
BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 20/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**K.R.UDAYABHANU, J**

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Crl.A.No.77 of 2001

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Dated this the 20th day of November, 2007

**JUDGMENT**

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 256(1) of Crl.P.C. as the complainant was absent. It is submitted that the lapse was on account of the wrong noting of the posting date.

2. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 5.12.2007.

The appeal is allowed.

**K.R.UDAYABHANU,**
**JUDGE**

csl